

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.14092 of 1995

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Dated 16-03-2006

Between:

N.J.Kristopher.

..... PETITIONER

AND

The Managing Director, Central Warehousing Corporation, 4/1, Siri Institutional Area, Hauz Khas, New Delhi & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.14092 of 1995

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ORDER:

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Questioning the action of the respondents in not reinstating the petitioner as chowkidar in the existing vacancies in one of the regions of the Central Warehousing Corporation, the present writ petition is filed.

Facts, in brief, are that the petitioner was appointed as chowkidar at Pedakakani, Guntur District, on contract basis, vide proceedings dated 17-02-1986. The petitioner having been selected in the interview was initially appointed for a period of six

months from 28-02-1986 to 27-08-1986. Petitioner would contend that he was thereafter appointed on regular basis even though it was called contract appointment and that his appointment was extended from time to time for six months upto

27-02-1988. Apprehending that the services of the petitioner would be terminated, he filed W.P.No.2896 of 1988. This Court initially, in WPMP.No.3688 of 1988, dated 26-02-1988, directed that the petitioner be continued in service as chowkidar if any of his juniors were continuing, and thereafter, this Court, by order dated

13-03-1988, vacated the interim order since none of the juniors to the petitioner were continuing on the relevant date. The writ petition eventually came to be dismissed on 21-12-1992 with a direction to the respondents to consider the petitioner's case as and when vacancies arise in future taking into consideration his past experience and the provisions of the Industrial Disputes Act, 1947. Petitioner would contend that in February, 1993, he came to know that nine vacancies of chowkidars had arisen as nine chowkidars were promoted to the post of Ware house Assistant Grade-II, by order dated 21-02-1993, that he had submitted representation on 05-03-1993 requesting the respondents to appoint him as chowkidar. Petitioner would refer to the case of one C.Veeresha, who was appointed as contract chowkidar at Kadapa and was ousted from service, but however, he was appointed in Bombay region by order dated 21-08-1989 and was later appointed as Office Assistant in Hyderabad region. Petitioner would contend that he was senior to Sri C.Veeresha by 23 days and had put in continuous service for more than two years and instead of appointing him, the respondents considered his junior Sri C.Veeresha to the post of chowkidar. Petitioner would contend that several of his juniors were appointed ignoring his claim of appointment. Petitioner would contend that he was prepared to work anywhere in the country and that the action of the respondents in denying him appointment is arbitrary and illegal.

In the counter affidavit, respondents would state that during the year 1993, nine group "D" employees i.e. five dusting operators, three chowkidars and one peon were promoted to the post of Warehouse Assistants and since the Head Office had taken a decision to reduce the staff, the posts which fell vacant stood surrendered as per the letter dated 16-12-1993. Since there are no vacancies available to the posts of chowkidars with the Corporation in Hyderabad region, the representations submitted by the petitioner was rejected. It is stated that no person was appointed as

chowkidar ignoring the claim of the petitioner. Respondents would deny that Sri C.Veeresha is junior to the petitioner and submit that he had reported for duty as chowkidar on contract basis from 10-02-1986 whereas the petitioner had reported for duty as chowkidar on contract basis from 28-02-1986. Respondents would state that Sri C.Veeresha is senior to the petitioner not only as per the date of reporting for duty but also as per the panel drawn by the departmental selection committee for appointment of chowkidars. It is stated that the petitioner is not qualified to be appointed as chowkidar on regular basis or temporarily inasmuch as he does not possess minimum educational qualification of VIII class as prescribed under the Central Warehousing Corporation Staff Regulations, 1986 and that he had only passed VI class. Respondents would state that there is no post of chowkidar vacant in Hyderabad region and no junior to the petitioner was appointed as chowkidar in Hyderabad region. It is stated that since the petitioner was not qualified for appointment as daily rated chowkidar as per the Central Warehousing Corporation Staff Regulations, 1986, he was not appointed as daily rated chowkidar in other regions.

Vacancies can be said to be available only where posts are in existence and since, consequent upon promotion of three chowkidars to the higher post of Warehouse Assistant, the three posts of chowkidars had been surrendered, such posts cease to exist, and it cannot therefore be said that vacancies in the posts of chowkidars are available. From the facts narrated in the counter affidavit, Sri C.Veeresha is also not junior to the petitioner herein.

The writ petition fails and is accordingly dismissed. No order as to costs.

16-03-2006

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